

Effective 5/13/2014

78A-6-317 All proceedings -- Persons entitled to be present.

- (1) A child who is the subject of a juvenile court hearing, any person entitled to notice pursuant to Section 78A-6-306 or 78A-6-310, preadoptive parents, foster parents, and any relative providing care for the child, are:
 - (a) entitled to notice of, and to be present at, each hearing and proceeding held under this part, including administrative reviews; and
 - (b) have a right to be heard at each hearing and proceeding described in Subsection (1)(a).
- (2) A child shall be represented at each hearing by the guardian ad litem appointed to the child's case by the court. The child has a right to be present at each hearing, subject to the discretion of the guardian ad litem or the court regarding any possible detriment to the child.
- (3)
 - (a) The parent or guardian of a child who is the subject of a petition under this part has the right to be represented by counsel, and to present evidence, at each hearing.
 - (b) When it appears to the court that a parent or guardian of the child desires counsel but is financially unable to afford and cannot for that reason employ counsel, the court shall appoint counsel as provided in Section 78A-6-1111.
- (4) In every abuse, neglect, or dependency proceeding under this chapter, the court shall order that the child be represented by a guardian ad litem, in accordance with Section 78A-6-902. The guardian ad litem shall represent the best interest of the child, in accordance with the requirements of that section, at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Part 5, Termination of Parental Rights Act.
- (5)
 - (a) Except as provided in Subsection (5)(b), and notwithstanding any other provision of law:
 - (i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and
 - (ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (5)(a)(i).
 - (b) The disclosures described in Subsection (5)(a) are not required in the following circumstances:
 - (i) subject to Subsection (5)(c), the division or other state or local public agency did not originally create the record being requested;
 - (ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any person who provided substitute care for the child;
 - (iii) disclosure of the record would jeopardize the anonymity of the person or persons making the initial report of abuse or neglect or any others involved in the subsequent investigation;
 - (iv) disclosure of the record would jeopardize the life or physical safety of a person who has been a victim of domestic violence;
 - (v) the record is a report maintained in the Management Information System, for which a finding of unsubstantiated, unsupported, or without merit has been made, unless the person requesting the information is the alleged perpetrator in the report or counsel for the alleged perpetrator in the report; or
 - (vi) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.
 - (c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the person making the request of the following:

- (i) the existence of all records in the possession of the division or any other state or local public agency;
- (ii) the name and address of the person or agency that originally created the record; and
- (iii) that the person must seek access to the record from the person or agency that originally created the record.

Amended by Chapter 90, 2014 General Session

Amended by Chapter 275, 2014 General Session